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NGO KING TONG

v.

GREAT EASTERN LIFE ASSURANCE (MALAYSIA) BHD & ANOR

B

HIGH COURT MALAYA, JOHOR BAHRU
ABDUL RAHMAN SEBLI J
[CIVIL SUIT NO: 23NCVC-163-11-2012]
1 JANUARY 2014

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CONTRACT: *Agency - Insurance premiums collected by agent - Claim for - Names of policy holders fraudulently filled by agent - Whether plaintiff lacked locus standi to seek declaration for insurance policies to be void - Whether plaintiff consented to five individuals being named as*
D *policy holders - Whether plaintiff bound to pay premiums*

CONTRACT: *Acceptance - Signature - Plaintiff signed insurance policy forms - Details subsequently filled by agent - Whether plaintiff bound by terms upon signing - Whether there was agreement between plaintiff and*
E *agent to name five different individuals as beneficiaries - Whether plaintiff bound to pay premiums*

INSURANCE: *Agents - Collection of premiums by agent - Private arrangement to pay via credit card - Whether agent acted outside scope of authority - Duty of care - Whether insurer liable*

F

EVIDENCE: *Adverse inference - Failure to call witness - Insurance policy - Failure to call agent as witness to prove existence of private arrangement - Whether evidence unfavourable to insurer - Whether out of court statement of private arrangement hearsay - Whether should be*
G *disregarded - Evidence Act 1950, s. 114(g)*

The plaintiff applied for declarations that the insurance policies issued by the first defendant were void and that the monies paid to the first defendant and the second defendant towards the insurance policies be refunded. The plaintiff was asked to sign five
H "Easi Pay Forms" by the second defendant, an insurance agent for the first defendant. The particulars of the plaintiff's name, policy numbers, credit card accounts and the amounts payable were already filled in by the second defendant in the Easi Pay Forms but the columns for the names of the policy holders were left
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blank. Unbeknown to the plaintiff, the second defendant filled in the names of five different individuals as policy holders in the Easi Pay Forms. These five individuals were total strangers to the plaintiff. The total premium payable for the five policies was RM139,999.85. The plaintiff alleged that although he had signed the Easi Pay Forms, he had never instructed the first defendant nor the second defendant to name the five individuals as beneficiaries of the policies and to charge the premiums payable by these individuals to his credit card accounts. The plaintiff contended that the first defendant should have been alerted to a possible fraud at the time it processed the five applications and was negligent in approving the policies without carrying out any investigation. However, the first defendant argued that since the plaintiff was not a party to the five policies, he had no *locus standi* to ask for the policies to be declared void. The first defendant's version of event was that a private arrangement existed between the plaintiff and the second defendant to use the plaintiff's credit cards to pay for the premiums for the five policies. The first defendant relied on the second defendant's out of court statements to prove the existence of a private arrangement between the plaintiff and the second defendant. In cross-examination, the first defendant, however, never challenged the plaintiff's evidence that the second defendant was not authorised to name the five individuals as the beneficiaries of the policies. The first defendant failed to call the second defendant as witness. Therefore, the plaintiff's testimony that he had not authorised the second defendant to name the five individuals as beneficiaries of the policies remained uncontradicted. Reference was also made to the payments of the said policies *vide* the plaintiff's credit card. The first defendant argued that the plaintiff knew about the transactions which involved his credit card accounts as he had settled his credit card bills diligently. The first defendant relied on the case of *Polygram Records Sdn Bhd v. Hillary Ang & Ors (Collectively Know As "The Search") & Anor* ('*Polygram Records*') to support it's contention that the general principle of law applied to the plaintiff where a party who signed a written contract was bound by the terms of the contract, except where fraud, undue influence, or misrepresentation was established. The rule was so strict that although the plaintiff had not read the contents of the contract, he was still bound by the terms.

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Held (allowing plaintiff's claim with costs):

(1) Being a party directly affected by the first defendant's acts or omissions, the plaintiff had a real or genuine interest in having his legal position declared. The position taken by the first defendant was incompatible with its own contention that the plaintiff was bound by the terms of the Easi Pay Forms. The first defendant could not blow hot and cold, in one breadth, saying that being a stranger to the policies, the plaintiff lacked *locus standi* and thereafter saying that he was bound by the policies. (para 4)

(2) The first defendant could not escape liability by saying that the transactions were a private arrangement between the plaintiff and the second defendant as all five policies were issued by it. To succeed in its defence, the first defendant must not only show that there was such a private arrangement between the plaintiff and the second defendant, but, must further show that the plaintiff had consented to the five individuals being named as the policy holders. The burden was on the first defendant to call the second defendant as a witness as it was the first defendant's pleaded case that there was a private arrangement between the plaintiff and its agent, the second defendant, to use the plaintiff's credit card accounts to pay for the policies of the five individuals. (paras 8 & 10)

(3) The failure to call the second defendant as a witness attracted an adverse inference against the first defendant under s. 114(g) of the Evidence Act 1950, that if the second defendant's evidence was produced, it would be unfavourable to the first defendant. In the absence of evidence to the contrary, the plaintiff's testimony that he never authorised the second defendant to name the five individuals as the policy holders in the Easi Pay Forms was accepted by the court. The out of court statement by the second defendant was hearsay and thus, disregarded. The implication on the statements by the second defendant including the alleged private arrangement between the second defendant and the plaintiff had not been proved by the first defendant. Such fact must therefore be treated as non-existent. (paras 11 & 12)

(4) An allegation of a private arrangement between the plaintiff and the second defendant was different from saying that the second defendant was acting outside the scope of her agency. As the allegation of a private arrangement between the plaintiff and the second defendant had not been proved, there was no evidential basis for the first defendant to contend that its agent had acted outside the scope of her authority. The transactions involving the five policies were therefore carried out in pursuance of the second defendant's lawful agency with the first defendant. (para 22)

(5) The first defendant's reliance on *Polygram Records* was misconceived. It was clear that there were exceptions to the general rule which included fraud. There was no agreement between the plaintiff and the first defendant to name the five policy holders as beneficiaries of the policies. Thus, there was no question of the plaintiff being bound to pay for their premiums. The first defendant had a duty of care to ensure that the insurance policies were issued to the right persons and the premiums charged to the right accounts. If it failed to do so and approved the policies blindly, it must bear the consequences. (paras 23, 24 & 26)

Case(s) referred to:
Affin Bank Bhd v. Mohd Kasim Ibrahim [2013] 1 CLJ 465 FC ***(refd)***
Arci Enterprise v. Selinsing Mining Sdn Bhd & Ors [2007] 1 CLJ 12 CA ***(refd)***
Lim Tee Hin v. Ledchumanan Nagappan [2004] 3 CLJ 285 HC ***(refd)***
Lu Tzie Nam & Ors v. Marcel Jude Joseph [2012] 1 LNS 1006 HC ***(refd)***
National Insurance Co Ltd v. S Joseph [1973] 1 LNS 97 HC ***(dist)***
Polygram Records Sdn Bhd v. Hillary Ang & Ors (Collectively Known As "The Search") & Anor [1994] 3 CLJ 806 HC ***(dist)***
Popular Industries Ltd v. The Eastern Garment Manufacturing Co Sdn Bhd [1990] 1 CLJ 133; [1990] 2 CLJ (Rep) 635 HC ***(refd)***

Legislation referred to:
Evidence Act 1950, s. 114(g)

Other source(s) referred to:
Brooms' Legal Maxims, 1st edn, p 103

For the plaintiff - PH Chiew; M/s Chew Pong Him & Partners
For the 1st defendant - Wong Hok Mun (SK Liew with him); M/s Azim, Tunku Farik & Wong

Reported by Sandra Gabriel

JUDGMENT

Abdul Rahman Sebli J:

[1] This was an originating summons converted into a writ action. The plaintiff's claim was for the following reliefs:

(i) a declaration that insurance policies bearing Nos. 1000689695, 1000494898, 1000494848, 10001739959 and 1001945601 issued by the first defendant are void.

(ii) The first and second defendants to refund the monies paid towards the policies in the sum of RM139,999.85 and

(iii) costs.

[2] At the conclusion of the trial I gave judgment for the plaintiff. The claim arose in the following way. The plaintiff had befriended the second defendant, an insurance agent for the first defendant since 2006 and had trusted her. In the past the plaintiff had bought many insurance policies from the second defendant and in all those transactions none of the policies was given to him. Sometime in 2008 the second defendant obtained the plaintiff's signatures for the purchase of the five policies mentioned above. For this purpose the plaintiff was asked to sign five "easi pay forms" by the second defendant. The particulars of his name, the policy numbers, his credit card accounts and the amounts payable were already filled in by the second defendant in the easi pay forms but the columns for the names of the policy holders were left blank. Unbeknown to the plaintiff the second defendant later filled in the names of five different individuals as policy holders in the easi pay forms. These five individuals were customers of the first defendant but were total strangers to the plaintiff. The total premium payable for the five policies was RM139,999.85.

[3] As was the case in the past the plaintiff was not given any of the policies by the second defendant. There is no dispute as to this fact. The plaintiff only realised that the second defendant had purchased the policies in the name of the five strangers in 2010, about two years after the easi pay forms were submitted to the first defendant for approval by the second defendant. The plaintiff then lodged a police report. The second defendant's agency account with the first defendant was also suspended by

the first defendant. Judgment in default of appearance had been entered against the second defendant. Her liability was therefore not in issue in this trial.

[4] I shall first deal with the issue of *locus standi* raised by the first defendant. It was argued that since the plaintiff was not a party to the five policies he had no standing to ask for the policies to be declared void, citing *Lim Tee Hin v. Ledchumanan Nagappan* [2004] 3 CLJ 285; *Lu Tzie Nam & Ors v. Marcel Jude Joseph* [2012] 1 LNS 1006; *Arci Enterprise v. Selinsing Mining Sdn Bhd & Ors* [2007] 1 CLJ 12. I found no merit in the argument. Clearly the plaintiff being a party directly affected by the first defendant's acts or omissions had a real or genuine interest in having his legal position declared: *Affin Bank Bhd v. Mohd Kasim Ibrahim* [2013] 1 CLJ 465 per Abdull Hamid Embong FCJ. It needs to be pointed out that the position taken by the first defendant is incompatible with its own contention that the plaintiff is bound by the terms of the easi pay forms. The first defendant cannot blow hot and cold, in one breadth saying that being a stranger to the policies the plaintiff lacks *locus standi* and in the next saying that he is bound by the policies, *allegans contraria non est audiendus* - he is not to be heard who alleges things contradictory to each other: see *Brooms' Legal Maxims* (1st edn.) where at p. 103 the learned authors stated as follows:

> This elementary rule of logic, which is frequently applied in our courts of justice, will receive occasional illustration in the course of this work. We may for the present observe that it expresses, in other language, the trite saying of Lord Kenyon, that a man shall not be permitted to 'blow hot and cold' with reference to the same transaction, or insist, at different times, on the truth of each of two conflicting allegations, according to the promptings of his private interest.

[5] The plaintiff's case in a nutshell is that although he had signed the easi pay forms he had never instructed the first defendant nor the second defendant acting as the first defendant's agent to name the five individuals as beneficiaries of the policies and to charge the premiums payable by these five individuals to his credit card accounts. His contention is that the first defendant was negligent in failing to verify this fact before approving the

policies. The defendant on the other hand says that the plaintiff is bound by what he signed as each of the five easi pay forms had a note which states:

> By signing this application form, Great Eastern Life Assurance (Malaysia) Berhad is authorized to charge all unpaid premium(s), Automatic Premium Loan, Interest (if any) and subsequent premiums of the policy/policies as stated in this application form to the credit card account as stated below, until further notice is given to the Company.

[6] The first defendant's version of events is that the plaintiff in cahoots with the second defendant had agreed to use his credit cards to pay for the premiums for the five policies and the second defendant in turn would reimburse him in cash which the plaintiff could utilise for his personal business operations. It was alleged that by this arrangement the plaintiff had earned substantial credit card reward points which he had used to redeem a few plasma TV sets. In other words it was a private arrangement between the plaintiff and the second defendant for their mutual benefit which the first defendant had nothing to do with or would be responsible for.

[7] In my view the matter is not as straightforward as the first defendant makes it out to be. It is true that by the terms of the easi pay forms the first defendant was authorised to charge insurance premiums to the plaintiff's credit card accounts but that was as far as the authorisation goes. It was not authority for the first defendant to charge to the plaintiff's accounts premiums that were payable by other persons who were never intended by the plaintiff to be the beneficiaries of the policies. On the evidence there can be no doubt that the second defendant and by extension the first defendant being the second defendant's principal had full knowledge of this fact. This is undisputed and it is also not the first defendant's pleaded case that it had no knowledge that the five individuals were not the intended policy holders.

[8] The first defendant cannot escape liability simply by saying that the transactions were a private arrangement between the plaintiff and the second defendant as all five policies were issued by it. To succeed in its defence the first defendant must not only show that there was such a private arrangement between the plaintiff and the second defendant but must further show that the

plaintiff had consented to the five individuals being named as the policy holders. In other words it must be shown that the plaintiff had authorised the second defendant to buy the policies for the benefit of the five individuals. The plaintiff vehemently denied having given such consent. This is what he said in his witness statement:

> Tidak. Saya menyatakan bahawa saya tidak pernah memberikan persetujuan secara tersurat dan/atau tersirat kepada Defendan Ke-2 yang menggunakan kad kredit saya untuk membeli polisi-polisi tersebut bagi pihak-pihak lain.
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> (Translation: "No. I say that I never gave my permission expressed and/or implied to the 2nd defendant to use my credit card to buy the said policies for others.")

[9] Of course the plaintiff's denial should not be taken at its face value but at the same time the first defendant cannot leave the denial unchallenged in cross-examination and unrebutted by evidence. The focus of the cross-examination was merely to establish the fact that the plaintiff had authorised the premiums to be charged to his accounts in pursuit of his private arrangement with the second defendant, but never to challenge his evidence that he never authorised the second defendant to name the five individuals as the beneficiaries of the policies. The best person who could confirm or refute this denial is the second defendant. But she was not called as a witness.

[10] The burden lies on the first defendant to call the second defendant as a witness as it is the first defendant's pleaded case that there was a private arrangement between the plaintiff and its agent the second defendant to use the plaintiff's credit card accounts to pay for the policies of the five individuals, which the plaintiff denied. The first defendant acknowledged this burden and had in fact applied for *subpoena* to secure the attendance of the second defendant. Unfortunately according to counsel the subpoena could not be served. It is not sufficient for the first defendant to merely say that the subpoena could not be served. Evidence must be adduced to show what effort if any the first defendant had made to serve the *subpoena* and why it failed. DW1's answer to question 19 of her witness statement (DWS1) is not such evidence.

[11] Whatever may be the reason for the first defendant's failure to call the second defendant as a witness the fact remains that without her evidence, the plaintiff's testimony that he did not authorise the second defendant to name the five individuals as beneficiaries of the policies remains uncontradicted. The failure to call the second defendant must also attract the adverse inference under s. 114(g) of the Evidence Act 1950 - that if produced the second defendant's evidence would be unfavourable to the first defendant. This includes the inference that the second defendant did not obtain the plaintiff's consent in naming the five individuals as the policy holders. In the absence of evidence to the contrary I accept the plaintiff's testimony that he never authorised the second defendant to name the five individuals as the policy holders in the easy pay forms. I have no reason not to believe the plaintiff's evidence on this point. I found him to be an honest and straightforward witness. In contrast the first defendant's key witness, namely DW1 was an evasive witness who would not answer questions promptly in cross-examination.

[12] From the testimonies of DW1 and DW2 it is obvious that the first defendant was relying on the second defendant's out of court statements to prove the so-called private arrangement between the plaintiff and the second defendant. This is clearly hearsay and ought to be disregarded notwithstanding that they were admitted without objection by the plaintiff: *Popular Industries Ltd v. The Eastern Garment Manufacturing Co Sdn Bhd* [1990] 1 CLJ 133; [1990] 2 CLJ (Rep) 635; [1989] 3 MLJ 360. The implication is that all of DW1's and DW2's evidence touching on the alleged statements by the second defendant including in particular the alleged private arrangement between her and the plaintiff has not been proved by the first defendant. Such fact must therefore be treated as non-existent. DW2's testimony that the plaintiff had admitted to this fact at the meetings held in Johor Bahru fell short of proving that the plaintiff had consented to the five policy holders being named as beneficiaries of the policies. In any event the plaintiff did tell DW2 at the meetings that the premiums were charged to his accounts without his authorisation. It is clear that after discovering the fraud the plaintiff was steadfast in his claim that he did not authorise his credit card accounts to be used to pay for the policies belonging to the five strangers who according to the forms were his five wives - exceeding by one the quota allocated to Muslim men.

[13] The circumstances under which the transactions were carried out were very suspicious. First of all none of the policies were in the plaintiff's name although he was supposed to be the applicant. At the time the plaintiff signed the easi pay forms the spaces for the names of the policy holders were left blank. They were filled in by the second defendant at a later date. The easi pay forms further state that the plaintiff's relationship with the policy holders was that of husband and wife when they were not to the knowledge of the second defendant. The plaintiff could not by a long shot have five wives, among them males. This should have alerted the first defendant to a possible fraud at the time it processed the five applications yet the first defendant approved the policies without carrying out any investigation whatsoever, a fact that is again not disputed by the first defendant.

[14] The plaintiff testified that it was not possible for him to buy those policies within such a short period of time as can be seen from the dates of purchase as follows:

(1) Policy No. 1000689695 purchased on 28 August 2008 and received by the first defendant on the same day.

(2) Policy No. 1000494898 purchased on 28 August 2008 and received by the first defendant on the same day.

(3) Policy No. 1000494848 purchased on 28 August 2008 and received by the first defendant one day later, ie, on 29 August 2008.

(4) Policy No. 10001739959 purchased on 31 October 2008 and received by the first defendant on the same day.

(5) Policy No. 10001945601 purchased on 31 October 2008 and received by the first defendant three days later, ie, on 3 November 2008.

[15] The fact that the particulars in the easy pay forms were suspicious was admitted by the first defendant itself through its witnesses DW1 and DW2. The latter even admitted under cross examination that there was something "fishy" about the policies. For instance the plaintiff's name for policy No. 10001945601 was cancelled and in its place was written the name of another individual. Only the second defendant initialled on the alteration.

This should have put the first defendant on high alert before approving the policies but it is clear that the first defendant could not be bothered. Its only concern it seems was to approve the application and to charge the premium to the plaintiff's account. Even DW2 agreed, *albeit* reluctantly under cross-examination that the first defendant should have made enquiry with the plaintiff before processing the documents.

[16] The first defendant argued that in all probability the plaintiff knew about the transactions involving his credit card accounts as he had settled his credit card bills diligently. Reference was made to the payment of RM50,000 made by the plaintiff from his Citi Bank account for policy No. 1000689695, the OCBC credit cards statement which revealed a transaction of RM14,999.90 for policy No. 1000494898 and Maybank credit card statement revealing a transaction of RM14,999.95. I do not find this evidence to be capable of rebutting the plaintiff's case that he did not authorise the second defendant to name the five individuals as the policy holders. The issue is not whether the plaintiff had authorised the use of his credit cards. The issue is whether he had authorised the appointment of the five individuals as beneficiaries of the policies.

[17] The plaintiff was asked in cross-examination about the RM50,000 and he explained that the amount could be his investment in the first defendant company. His testimony is that since 2006 he had invested RM473,002.85 in the first defendant company and this was not challenged in cross-examination. In fact counsel for the first defendant asked him to confirm the investment, which he obliged, and when counsel remarked "Yes, I mean RM473000 certainly to me is a lot of money yes?" the plaintiff obligingly answered "Yes, my Lord." There is therefore no evidential basis for the first defendant to argue that the transactions on the plaintiff's credit card accounts were "most likely" to be part of the private dealings between the plaintiff and the second defendant.

[18] The first defendant argued that the plaintiff is still liable, relying on the decision of the High Court in *National Insurance Co Ltd v. S Joseph* [1973] 1 LNS 97; [1973] 2 MLJ 195 where it was held that an insured who signed a blank proposal form was

under a duty to ensure that the form was correctly filled by the agent and that by signing it he would be taken to have read and adopted the terms. It is important to understand the factual context behind the decision. In that case the plaintiff, an insurance company applied for an order to declare as void a policy of insurance granted to the defendant in respect of his motor car on the ground of the defendant's misrepresentation and non-disclosure of material facts. It was alleged that in answer to questions in the proposal form the defendant had stated that no company had cancelled his policy of insurance in respect of any motor vehicle controlled or owned by him and that he had not met with any accident whilst driving when in fact the defendant had taken out a policy of insurance which he had cancelled as a result of a motor accident involving his car.

[19] It is clear that in that case the defendant was guilty of misrepresentation and non-disclosure of material facts. In the present case the plaintiff was not guilty of such acts. If at all it was the first defendant through its agent the second defendant who was guilty of manipulation. The decision therefore does not assist the first defendant as the facts are materially different. Further, the present case stands on a different footing. It is grounded on negligence and not on misrepresentation. The plaintiff is not saying that he did not sign the easi pay forms or that did not understand the terms of the documents. Nor is he saying that he had not read the contents. What the plaintiff is saying is that he never consented to the five individuals being named as beneficiaries of the insurance policies and that the first defendant was negligent in failing to ascertain this fact. It follows that if the five individuals were not the intended policy holders, the first defendant had no right to charge to the plaintiff's accounts the premiums payable by them.

[20] In his judgment Yong J in *National Insurance Co Ltd* (*supra*) made the following observations which counsel said supports his contention that the first defendant is not bound by the second defendant's act:

> In my view if a person applying for insurance, signs a proposal form in blank leaves it to the agent of the insurance company to complete it on his behalf after having given him certain information, and the agent completes it with false and untrue

A material particulars for the purpose of getting a policy of insurance for the applicant and a commission for himself in fraud of his principal, the agent is not acting within the scope of his authority and in so doing he is not acting as agent of the insurance company and the latter with no knowledge of such fraud is entitled to avoid the policy of insurance.

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[21] The first thing to note with regard to the above observation is that it is *obiter*, ie, made *en passant* (in passing) and unnecessary for the determination of the issue before the court, which was whether the misrepresentation and non-disclosure of material facts C by the defendant rendered the insurance policy void. Secondly the learned judge was contemplating a situation where a person applying for insurance gives the agent certain information with regard to the policy and the agent completes it with false and untrue material particulars. The question whether the insurance D agent acted within or outside the scope of his authority simply did not arise for determination as the court found "not an iota of evidence" to substantiate the defendant's allegation that the insurance company's agent had obtained his signature on the proposal form without the particulars being filled in. That is the E factual context in which the legal position was determined. Lawyers must understand that a case is only authority for what it decides. It does not apply across the board and to all factual situations. It only applies if the *ratio decidendi* of the case is identifiable with the facts in issue.

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[22] Further, it is not the first defendant's pleaded case that the second defendant was acting outside the scope of her authority. An allegation of a private arrangement between the plaintiff and the second defendant as pleaded is quite different from saying that G the second defendant was acting outside the scope of her agency if otherwise the first defendant had expressed or implied knowledge of the arrangement. In any event, as the allegation of a private arrangement between the plaintiff and the second defendant has not been proved by the first defendant there is no evidential basis H for the first defendant to say that its agent had acted outside the scope of her authority. The transactions involving the five policies were therefore carried out in pursuance of the second defendant's lawful agency with the first defendant.

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[23] Reliance was also placed on the case of *Polygram Records Sdn Bhd v. Hillary Ang & Ors (Collectively Known As "The Search") & Anor* [1994] 3 CLJ 806; [1994] 3 MLJ 127 where Visu Sinnadurai J said:

> There is no principle of law which states that where a party does not fully understand certain terms of a contract, the contract may be vitiated. The general principle of law, of course, is that a party who signs a written contract is bound by the terms of the contract, except in the limited cases where fraud, undue influence, or misrepresentation may be established. The rule is so strict that even if a party to a contract has not read the contents of the contract, he is held to be bound by its terms.

[24] With due respect counsel's reliance on the judgment is misconceived. In the first place the learned judge in the passage quoted above made it clear that there are exceptions to the general rule and this includes fraud. In any case and quite aside from the issue of *locus standi*, there was no agreement between the plaintiff and the first defendant to name the five policy holders as beneficiaries of the policies. There is therefore no question of the plaintiff being bound to pay for their premiums.

[25] The first defendant being an established financial institution whose business was to give out insurance policies to the public should have investigated the status of the applications when it became apparent to it that something was not right with the particulars in the easi pay forms, in particular where the name of the applicant did not match with the names of the policy holders. What the first defendant did or rather omitted to do in this case if endorsed by the court could potentially lead to the victimisation of innocent members of the public who deal with financial institutions like the first defendant. The possibility is real if the following excuse by DW1 in her witness statement (DWS1) is anything to go by:

> The 1st defendant receives and processes hundreds of Easi Pay Forms every day. Under such circumstances, it is impossible and/ or unreasonable to expect the 1st defendant to do a background search or check on each and every Easi Pay Forms submitted to them to ascertain whether the particulars provided for in the Easi Pay Forms are accurate. In fact, the plaintiff as the owner of the credit cards shall verify the details on the Easi Pay Forms before putting his signature to the Easi Pay Forms.

A **[26]** While it is true that a person who signs a legal document blindly must bear the consequences of his act unless he falls within any of the exceptions to the general rule, a profit making institution like the first defendant has a duty of care to ensure that the insurance policies it issues are issued to the right persons and
B the premiums charged to the right accounts. If it fails to do so and approves the policies blindly it must bear the consequences. For all these reasons the plaintiff's claim was allowed with costs.

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